



Billing Code: 6560-50

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R08-OAR-2015-0085; FRL-9929-35-Region 8]**

**Approval and Promulgation of State Implementation Plan Revisions; Rules, General Requirements and Test Methods; Utah**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on January 28, 2010, September 16, 2010, June 18, 2013, and August 29, 2014. These submittals revise the rules, general requirements and test methods for the State of Utah. The amendments also update the version of the Code of Federal Regulations (CFR) incorporated by reference into the rules of the State of Utah. EPA is not taking action on an April 26, 2012 submittal or a November 4, 2013 submittal because they have been superseded by the August 29, 2014 submittal. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[Insert date 30 days after publication in the FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2015-0085, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Email: [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov)

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2015-0085. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. 303-312-7814, [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

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## **I. General Information**

What should I consider as I prepare my comments for EPA?

1. Submitting Confidential Business Information (CBI). Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.
2. Tips for preparing your comments. When submitting comments, remember to:
  - Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register volume, date, and page number);
  - Follow directions and organize your comments;
  - Explain why you agree or disagree;
  - Suggest alternatives and substitute language for your requested changes;
  - Describe any assumptions and provide any technical information and/or data that you used;

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

## **II. Analysis of the State Submittals**

In this proposed rulemaking, we are proposing to approve four submittals into Utah's SIP. The January 28, 2010 submittal revises R307-405-2, Permits: Major Sources in Attainment or Unclassified Areas (PSD) and R307-102, General Requirements: Broadly Applicable Requirements. The submittal revises R307-405-2, which incorporates by reference the federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21. Changes include the exclusion of ethanol production facilities from the definition of chemical process plants, and the clarification in the record keeping requirements for a modification where there is a "reasonable possibility" that the change would result in a significant increase of any regulated New Source Review (NSR) pollutant. The ethanol exclusion Final Rule was issued by EPA (72 FR 24060, May 1, 2007). EPA approved Utah's revised rules to implement the non-vacated provisions of EPA's NSR Reform regulations (76 FR 41712, July 15, 2011). EPA proposes to approve this part of the submittal.

The January 28, 2010 SIP revision also updates the incorporation by reference date of the 40 CFR to July 1, 2008. EPA is not taking action on this proposed update because it was superseded by the August 29, 2014 submittal that we are acting on in this document.

EPA also proposes to approve R307-102, General Requirements: Broadly Applicable Requirements, which changes the authorization from Title 63-46b-4 to Title 63G-4-202, due to the recodification of Title 63 made by House Bill 63 Chapter 328, Laws of Utah 2008.

The January 28, 2010 submittal revised R307-101-2, Definitions, to update the threshold limit values to the 2009 American Conference of Governmental Industrial Hygienists publication of Threshold Limit Values for Chemical Substances and Physical Agents & Biological Exposure Indices. However, a March 19, 2014 letter from the Governor withdrew the January 28, 2010 submittal of R307-101-2. No further action is required on this submittal.

The September 16, 2010 submittal revises R307-101-2, to add the definition of PM<sub>2.5</sub>, and General Requirements: Definitions. The existing R307-101-2 was approved by EPA on September 2, 2008 (73 FR 51222). The definition of “PM<sub>2.5</sub>,” consistent with the definition at 40 CFR 50.7, means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method. We propose to approve this definition of PM<sub>2.5</sub>.

The September 16, 2010 submittal also updates R307-214, National Emission Standards for Hazardous Air Pollutants to add 12 new federal Maximum Achievable Control Technology (MACT) standards that may apply to sources of hazardous air pollutants in Utah. The amendments to R307-101-3 and R307-214 update the version of the Code of Federal Regulations incorporated by reference into the rules of the State of Utah.

However, a March 19, 2014 letter from the Governor withdrew the request to approve the September 16, 2010 submittal regarding R307-214, National Emission Standards For Hazardous Air Pollutants, which is the Utah Air Quality rule that incorporates by reference provisions of 40

CFR parts 61 and 63. There is no requirement for parts 61 and 63 to be incorporated into Utah's SIP, so no further action is required on that part of the submittal. EPA is not taking action on the proposed update to the version of the Code of Federal Regulations for R307-101-3, because it was superseded by the August 29, 2014 submittal that EPA is proposing to approve in this document.

The June 18, 2013 submittal revises R307-401-15, Air Strippers and Soil Venting Projects, to refer to the most recent test methods and to allow sources to use future updated federally-approved methods. The existing rule was (conditionally) approved by EPA (79 FR 27190, May 13, 2014), after EPA received a commitment letter from the State of Utah to remove the Director's Discretion language within one year or EPA's action would revert to a disapproval. The State submitted proposed revised language within the one-year deadline and requested that EPA approve the following language in R307-401-15(3)(a), "Emissions estimates of volatile organic compounds shall be based on test data obtained in accordance with the test method in the EPA document SW-846, Test #8260c or 8261a, or the most recent EPA revision of either test method if approved by the director." Utah also proposes to revise R307-401-15(3)(b), to now state, "Emissions estimates of hazardous air pollutants shall be based on test data obtained in accordance with the test method in EPA document SW-846, Test #8021B or the most recent EPA revision of the test method if approved by the director." This language provides the certainty required to ensure the appropriate EPA approved test is used and, because EPA routinely updates test methods, this language allows the State to use the most current version of the test method without having to do a SIP revision. We propose to approve these revisions.

The June 18, 2013 submittal also proposes a non-substantive change to re-number R307-

410-5(1)[(d)] to R307-410-5(1)(c)(i)(C). EPA is not acting on this proposed change because EPA disapproved R307-410-5, Documentation of Ambient Air Impacts for Hazardous Air Pollutants on February 6, 2014 due to lack of EPA authority to approve provisions that only address hazardous air pollutants in a SIP revision under CAA section 110 (79 FR 7072).

The April 26, 2012 submittal revises R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference. EPA is not taking action on this submittal because it was superseded by the August 29, 2014 submittal that EPA is acting on in this document.

The November 4, 2013 submittal also revises R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference. EPA is not taking action on this submittal because it was superseded by the August 29, 2014 submittal that EPA is acting on in this document.

The August 29, 2014 submittal amends R307-101-3, General Requirements, Version of Code of Federal Regulations Incorporated by Reference and supersedes and replaces all previous versions of submittals received on January 28, 2010, September 16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on those earlier submittals. The existing rule was approved by EPA on September 2, 2008 (73 FR 51222). Except as specifically identified in an individual rule, the version of the CFR incorporated throughout R307 is dated July 1, 2013.

The August 29, 2014 submittal amends R307-101-3 to include four chemical compounds on the list of compounds excluded from the definition of VOC, as found in EPA rule at 40 CFR 51.100(s), on the basis that each of these compounds makes a negligible contribution to



tropospheric ozone formation. These compounds consist of four hydrofluoropolyethers (HFPEs) which are identified as HCF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-134), HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-236cal2), HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (also known as HFE-338pcc13), and HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (also known as H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)). If an entity uses or produces any of these four HFPE compounds (these being in the family of products known by the trade name H-Galden) and is subject to the EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone national ambient air quality standards (NAAQS), then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met.

This EPA rule, Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of a Group of Four Hydrofluoropolyethers (HFPEs), was finalized on February 12, 2013 (78 FR 9823). EPA proposes to approve this SIP revision.

Finally, the August 29, 2014 submittal updates the version of the CFR incorporated by reference into the rules of the State of Utah to reflect that 40 CFR 60.56c(d)(2) of subpart Ec was removed from federal regulation (78 FR 28052). That provision previously excluded Hospital Medical Infectious Waste Incinerators (HMIWI) units from having to comply with standards during periods of Startup Shutdown Malfunction (SSM) provided that no hospital waste or medical/infectious waste was being charged to the unit during those SSM periods. That provision was removed from federal regulation on May 13, 2013 (78 FR 28052). EPA proposes to approve this SIP revision.

### **III. What Action is EPA Taking Today?**

EPA is proposing to approve the SIP revisions submitted by Utah on January 28, 2010, September 16, 2010, June 18, 2013 and August 29, 2014. We are proposing to approve the January 28, 2010 revisions to R307-405-2, with exception to the proposed change to the incorporation by reference date, and proposing to approve all of the revisions to R307-102. We are proposing to approve the June 18, 2013 SIP revisions, with the exception of the non-substantive change to re-number R307-410-5(1)[(d)] to R307-410-5(1)(c)(i)(C). The August 29, 2014 submittal's newly amended rule supersedes and replaces all previous versions of submittals of R307-101-3, General Requirements, Version of Code of Federal Regulations Incorporated by Reference. EPA proposes to approve the August 29, 2014 revisions. Previous submittals were received on January 28, 2010, September 16, 2010, April 26, 2012 and November 4, 2013. No further EPA action is required on these earlier submittals.

#### **IV. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah Division of Air Quality rules regarding rules, general requirements, and test methods discussed in section II, Analysis of the State Submittals, of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### **V. Statutory and Executive Orders Review**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations 42 U.S.C. 7410(k); 40

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves some state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact in a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 3, 2015.

Shaun L. McGrath,  
Regional Administrator,  
Region 8.

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